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EAST et ux. v. HYDE.

March 9, 1911.

[70 S. E. 508.]

1. **Equity (§ 431*)—Decree—Construction.**—Where, in a suit to cancel a contract for the sale of land, defendant interposed a cross-bill, seeking reformation and specific performance, and the decree rescinding the contract in accordance with the prayer of the original bill made no mention of a demurrer to the cross bill, it should be regarded as having been overruled.

[Ed. Note.—For other cases, see Equity, Cent. Dig. § 1049; Dec. Dig. § 431.* 4 Va.-W. Va. Enc. Dig. 502.]

2. **Cancellation of Instruments (§ 47*)—Evidence—Sufficiency.**—In a suit for the cancellation of a contract for the sale of land on the ground that defendant had failed to perform, evidence held to warrant a decree for complainant.

[Ed. Note.—For other cases, see Cancellation of Instruments, Cent. Dig. § 103; Dec. Dig. § 47.* 11 Va.-W. Va. Enc. Dig. 892; 13 Va.-W. Va. Enc. Dig. 546.]

3. **Reformation of Instruments (§ 45*)—Evidence—Sufficiency.**—Evidence given in support of a cross-bill for reformation of a contract for the sale of land and specific performance thereof held insufficient to warrant a decree for defendant.

[Ed. Note.—For other cases, see Reformation of Instruments, Cent. Dig. §§ 157-193; Dec. Dig. § 45.* 11 Va.-W. Va. Enc. Dig. 905; 9 Va.-W. Va. Enc. Dig. 866.]

Appeal from Circuit Court, Amelia County.

Suit by C. A. Hyde against W. C. East and wife. From a decree in favor of complainant, defendants appeal. Affirmed.

Jas. M. Quicke, Jr., and R. G. Southall, for appellants.

T. Freeman Epes, Epes & Epes, Sale, Mann & Tyler, and Saml. W. Zimmer, for appellee.

WICKHAM & NORTHROP v. TURPIN.

March 9, 1911.

[70 S. E. 514.]

Witness (§ 388*)—Impeachment—Inconsistent Statements—Foundation—Certainty of Inquiry.—Plaintiff, in an action for personal injuries, asked a witness for the defendant on cross-examination whether he had had a certain stated conversation with a person named, at a certain time and place. The plaintiff's impeaching witness, after beginning a narrative version of the conversation, was

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.